

## **REMARKS**

Applicants reply to the Advisory Action dated August 16, 2011. Please consider the following amendments and remarks after entry of the RCE. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Applicants assert that the application is in condition for allowance and reconsideration of the pending claims is requested.

### **Rejections Under 35 U.S.C. § 103(a)**

In the final Office Action, dated May 25, 2011, the Examiner rejected claims 17-33 under 35 U.S.C. § 103(a) as being unpatentable over Fredregill (U.S. Patent Application No. 2005/0144074) in view of Davis (U.S. Patent Application No. 2004/0193491) and further in view of Musharbash (U.S. Patent No. 7,096,164). In the Advisory Action mailed August 16, 2011, the Examiner noted that Postrel (U.S. Patent No. 6,594,640) and/or Donkken (U.S. Patent Application Publication No. 2003/0225619) may generally disclose converting loyalty points from a plurality of loyalty accounts to cover a redemption value. Applicants respectfully disagree with the Examiner's rejections and comment in the Advisory Action; however, Applicants amend certain pending claims, without prejudice or disclaimer, to further clarify the patentable aspects and to expedite prosecution.

As previously noted, Fredregill discloses an on-line shopping system that can be associated with a loyalty account. However, Fredregill does not disclose a logic based point conversion ratio based on the type of loyalty points used and the type of item being purchase. In fact, Fredregill does not provide a system that is capable of collecting points from various accounts at a single source. In the Office Action at page 4, the Examiner notes that the Fredregill discloses:

The points that may be earned include 'regular' points and 'bonus' points ... customers earn 'regular' points based on the pretax dollar amount of the current sales transaction, less any exempt items. 'Bonus' points are extra points that may be earned by the customer on the purchase of specifically promoted items ... Bonus points may also be awarded in a variable pricing scheme ... which may award 50 points for each pound of an item purchased'; page 4, paragraphs 0025-0026; and "In this particular embodiment, the point value for redeeming a redemption item is -750 points. The reduction of the price of the redeemable item is -\$1.20", i.e. a conversion ratio of 750 points to 1.2 dollars; page 9, paragraph 0051. Thus, the customer may earn 100 regular points for a purchase of a 5 pound bag of potatoes costing \$10 (conversion ratio of 10 points per dollar) and an

additional 250 bonus points for the same purchase (conversion rate of 50 points per pound) for a total point award for that purchase being 350 points. Figure 3c shows these steps (steps 320-324)

Applicants maintain that the variable pricing scheme and rewards system disclosed by Fredregill awards points to a participant's account based on an item being purchased. The Examiner notes that there may be regular points earned by the participant based on the dollar amount spent for the item and bonus points earned based on the amount of the item purchased, where each of these points has a common value and is stored in a single account. Put another way, the conversion ratio of Fredregill is used to determine the number of points (regular and bonus points) provided to a participant based on the amount of money spent and the amount of an item purchased. *Fredregill does not disclose a system that allows points from different accounts to be used to make a purchase, where those points have different values and the points are converted based on the source of the points and the item being purchased.* In other words, Fredregill would not be capable of determining a purchase amount corresponding to a purchase made with Delta Sky Miles and American Express MR Rewards points, for an item that is not being purchased with either Delta Sky Miles or American Express MR Rewards points.

Postrel discloses a system that combines rewards points into a common account and then uses the converted rewards points to make a purchase at a merchant. However, Postrel does not teach a system where the conversion is dependent on the item being selected and the reward type being used for purchase. Instead, Postrel teaches a system that collects and assigns a uniform value to each reward point and then allows a user to make purchases.

Like Postrel, Dokken disclose a single "settlement point" or exchange for converting various types of loyalty points to a uniform value. Moreover, Dokken specifically, notes that points can be combined, debited, and/or credited regardless of the type of good or service being purchased. As such, neither Dokken, nor Postrel cure the deficiencies identified above.

Davis discloses a computer-enabled certificate program. The system allows a system provider to provide incentives to users in the form of certificates. Like Fredregill, the system of Davis does not disclose a logic based point conversion ratio based on the type of loyalty points be used and the item being purchase.

Musharhash discloses a system and software for the design and sale of electro-mechanical circuits. Moreover, Musharhash does not cure the deficiencies for Fredregill and Davis discussed above.

As such, Applicants assert that the cited references alone or in combination do not disclose or contemplate at least, **“identifying, by the computer based system, a loyalty point type associated with the non-tangible item, wherein the non-tangible item is purchased with loyalty points of the identified loyalty point type,”** **“determining, by the computer based system, a first conversion ratio for the non-tangible item based on the identified loyalty point type and a non-tangible item type,”** or **“converting, by the computer based system, the first amount of loyalty points to the second amount of loyalty points, wherein a deficiency amount is displayed in response to the second amount of loyalty points being less than the purchase amount,”** (emphasis added), as similarly recited in independent claims 17, 27 and 28.

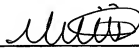
Furthermore, claims 18-26 and 29-33 variously depend from independent claim 17. As such, Applicants assert that claims 18-26 and 29-33 are differentiated from the cited references for the same reasons as set forth above, in addition to their own novel features. Thus, Applicants respectfully request allowance of all pending claims.

When a phrase similar to “at least one of A, B, or C” or “at least one of A, B, and C” is used in the claims or specification, Applicants intend the phrase to mean any of the following: (1) at least one of A; (2) at least one of B; (3) at least one of C; (4) at least one of A and at least one of B; (5) at least one of B and at least one of C; (6) at least one of A and at least one of C; or (7) at least one of A, at least one of B, and at least one of C.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If an extension of time is necessary, please accept this as a petition therefore. Applicants invite the Office to telephone the undersigned if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: September 7, 2011

By:   
Mark Williams  
Reg. No. 64,425

**SNELL & WILMER L.L.P.**  
400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004  
Phone: 602-382-6542  
Fax: 602-382-6070  
Email: mwilliams@swlaw.com